

In re ) Fair Hearing No. 16,556  
 )  
Appeal of )

The petitioner appeals the decision by the Department of Prevention, Assistance, Transition and Health Access (formerly the Department of Social Welfare) reducing her Food Stamps and finding her liable for an overpayment of benefits under that program. The issue is whether income the petitioner received from her work in the federal VISTA program is excluded under the pertinent regulations.

1. In July or early August in the summer of 1999 the petitioner was accepted into the VISTA program. She was "sworn into" the VISTA program on August 18, 1999, and she began working in the program on August 23, 1999. The VISTA Program pays her a monthly "stipend" (the amount of which is not in dispute).

2. On August 18, 1999, the same day she was sworn into VISTA, the petitioner also applied for Food Stamps. Her Food Stamp interview was held at the Department on August 24, 1999, and she was granted Food Stamps on August 25 (effective August 24), 1999. At that time, the Department determined that her VISTA stipend was exempt from inclusion as income for purposes

of the Food Stamp program.

3. The petitioner continued to receive Food Stamps in this manner until her case recently underwent a routine "recertification". On June 13, 2000 the Department notified her that it had made an error in excluding her VISTA stipend as income; and that, as a result, her ongoing Food Stamps would be decreased (from \$127 a month to \$34<sup>1</sup>), and that the petitioner had been overpaid Food Stamps for all the previous months in which her VISTA stipend had not been included as income.

ORDER

The decision of the Department is affirmed.

REASONS

The Food Stamp regulations provide that all income except that specifically excluded shall be counted in determining a household's eligibility. Food Stamp Manual (FSM) § 273.9 (b). VISTA stipends are addressed at FSM § 273.9 (c)(10)(iii), which includes the following provisions:

...Payments under Title 1...(including...VISTA...) to volunteers shall be excluded for those individuals receiving Food Stamps or public assistance at the time they joined the Title 1 Program...New applicants who were not receiving public assistance or Food Stamps at the time they joined VISTA shall have these volunteer payments included as earned income.

---

<sup>1</sup> The petitioner also had a decrease in shelter costs at this time (which is not in dispute) that also affected the amount of her Food Stamps.

The issue in this case concerns the timing of the petitioner's "joining" VISTA and her "receiving" Food Stamps. It is undisputed that the petitioner received notification that she was accepted into the VISTA program some weeks before the date of her "swearing in" to that program on August 18, 1999. It is also undisputed that, although the petitioner also applied for Food Stamps on August 18, 1999, she was not found eligible to begin receiving them until August 24, 1999, one day after she began her actual work for VISTA. Under these circumstances, it must be concluded that the petitioner was not "receiving" Food Stamps when she "joined" VISTA within the meaning of § 273.9(c)(10)(iii), above; and the Department's decision to that effect must, therefore, be affirmed. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

# # #